

# Conformity Requirements for State UC Laws

## *Athletes*

### **Background**

Section [3304](#)(a)(13) of the Federal Unemployment Tax Act (FUTA) became law in 1976. The intent was to deny benefits to professional athletes returning to work as professional athletes and who are unlikely to be available for other employment in the off season.

Section 3304(a)(13), FUTA, requires that “compensation shall not be payable to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).”

### **Frequently Asked Questions**

1. How does the Department of Labor define the terms used in this section?

At a minimum “an individual shall be deemed to have performed substantially all services in such sports or athletic events if the individual engaged in such sports or athletic events for 90 percent or more of the total time spent in the base period in the performance of all covered services.”

“Reasonable assurance” has been interpreted to include: A written contract; player’s offer to work and employer’s expressed interest in hiring the player; or an athlete’s readiness and intent to participate in the sport in the next season.

2. Is this denial limited just to “athletes” or may it include other, ancillary personnel for sports teams?

Section 3304(a)(13), FUTA, establishes the minimum requirement. States may expand the denial to include ancillary personnel involved with the team or event such as managers, coaches, and trainers employed by professional teams, and referees and umpires employed by professional leagues or associations in the denial. Whether the denial is extended to these other groups is a state option.

### **References:**

[Green Book](#). Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976 and Supplements 1-5.

[UIPL 18-98](#). Use of Services Performed by Professional Athletes Between Seasons.